

Claims 1-9 are rejected under 35 USC §112, first paragraph, on grounds that specification does not enable the invention because the diets used in the assays were high fat diets.

While the assays did employ high fat diets, that does not mean that the test results are meaningless for normal diets. The Examiner seems to be saying that the use of a high fat diet would have made it *easier* to prevent weight gain, but that theory has not been supported by scientific theory or literature. Extra fat in the diet would have made it *harder* to prevent weight gain, because fat is so caloric. The fact that the method works even in the presence of excess fat is evidence in itself that the method is highly effective.

Furthermore, as shown by the Richardson Declaration submitted on October 24, 2001, the data in the specification represents a scientifically sound method for testing this invention. The high fat content was used in order to give a more clearly measurable result (made possible by the great weight-enhancing properties of fat) than a standard diet would have required. Accordingly this rejection should be reconsidered and withdrawn.

Applicants submit that the case is now in condition for allowance.

Respectfully submitted,

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